

## Internal Revenue Service

Number: **201426003**

Release Date: 6/27/2014

Index Number: 7701.00-00, 9100.00-00,  
9100.31-00

## Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01

PLR-128657-13

PLR-104445-14

PLR-104438-14

PLR-104855-14

PLR-104863-14

PLR-104446-14

PLR-104451-14

PLR-104452-14

PLR-104453-14

PLR-104454-14

PLR-104455-14

PLR-104870-14

PLR-104872-14

PLR-104890-14

PLR-104410-14

PLR-104457-14

PLR-104458-14

PLR-104874-14

PLR-104887-14

PLR-104462-14

PLR-104463-14

PLR-104466-14

PLR-104884-14

PLR-104467-14

PLR-104469-14

PLR-104470-14

PLR-104473-14

PLR-104471-14

PLR-104475-14

PLR-104476-14

PLR-104478-14

PLR-104479-14

PLR-104480-14

PLR-104481-14

PLR-104482-14

PLR-104483-14

PLR-104849-14  
PLR-104876-14  
PLR-104880-14  
PLR-104484-14  
PLR-104881-14  
PLR-104853-14  
PLR-104530-14  
PLR-104532-14  
PLR-104534-14  
PLR-104883-14  
PLR-104535-14  
PLR-104537-14  
PLR-104538-14  
PLR-104737-14  
PLR-104739-14  
PLR-104540-14  
PLR-104705-14  
PLR-104707-14  
PLR-104709-14  
PLR-104711-14  
PLR-104712-14  
PLR-104411-14  
PLR-104412-14  
PLR-104413-14  
PLR-104414-14  
PLR-104433-14  
PLR-104726-14  
PLR-104714-14  
PLR-104715-14  
PLR-104719-14  
PLR-104717-14  
PLR-104724-14  
PLR-104415-14  
PLR-104416-14  
PLR-104417-14  
PLR-104436-14  
PLR-104437-14  
PLR-104830-14  
PLR-104833-14  
PLR-104740-14  
PLR-104741-14  
PLR-104743-14  
PLR-104727-14  
PLR-104730-14  
PLR-104731-14  
PLR-104733-14

PLR-104734-14  
PLR-104735-14  
PLR-104780-14  
PLR-104781-14  
PLR-104789-14  
PLR-104791-14  
PLR-104792-14  
PLR-104782-14  
PLR-104784-14  
PLR-104785-14  
PLR-104793-14  
PLR-107756-14  
PLR-104794-14  
PLR-104796-14  
PLR-104798-14  
PLR-104800-14  
PLR-104802-14  
PLR-104418-14  
PLR-104805-14  
PLR-104811-14  
PLR-104836-14  
PLR-104840-14  
PLR-104843-14  
PLR-104847-14  
PLR-104419-14  
PLR-104815-14  
PLR-104819-14  
PLR-104420-14  
PLR-104421-14  
PLR-104422-14  
PLR-104736-14  
PLR-104423-14  
PLR-104425-14  
PLR-104426-14  
PLR-104428-14  
PLR-104429-14  
PLR-104431-14  
PLR-104432-14

Date:  
March 5, 2014

Legend:

X

=

Y Group =

Entity =

Country =

State =

Date of Formation =

Dear :

This responds to a letter dated June 24, 2013 and subsequent correspondence, submitted on behalf of Entity, requesting that the Service grant Entity an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c) to be treated as a disregarded entity for federal tax purposes.

#### Facts

According to the information submitted, X is a corporation formed under the laws of State and is a member of Y Group. On Date of Formation, X, or a wholly-owned subsidiary of X, formed Entity as wholly-owned foreign entity under the laws of Country. Entity represents that it always intended to elect to be treated as disregarded entities effective Date of Formation. However, Entity failed to timely file Form 8832, Entity Classification Election, to elect to be treated as a disregarded entity for federal tax purposes.

Entity represents that it acted reasonably and in good faith. Entity also represents that granting the relief requested will not prejudice the interests of the government.

#### Law and Analysis

Section 301.7701-4(a) provides that in general, the term “trust” as used in the Internal Revenue Code (“Code”) refers to an arrangement created either by will or by an inter vivos declaration whereby trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts.

Section 301.7701-4(b) addresses “business trusts” and provides that there are other arrangements which are known as trusts because the legal title to property is conveyed to trustees for the benefit of beneficiaries, but which are not classified as trusts for purposes of the Code because they are not simply arrangements to protect and conserve the property for the beneficiaries. The fact that any organization is technically cast in the trust form, by conveying title to property to trustees for the benefit of persons designated as beneficiaries, will not change the real character of the organization if the organization is more properly classified as a business entity under § 301.7701-2.

Section 301.7701-2 provides that a business entity is any entity recognized for federal tax purposes (including an entity with a single owner that may be disregarded as an entity separate from its owner under § 301.7701-3) that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Code. A business entity with two or more members is classified for federal tax purposes as either a corporation or a partnership.

Section 301.7701-3(a) provides in part that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes. An eligible entity with at least two members can elect to be classified as either an association or a partnership, and an eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association if all members have limited liability, unless the entity makes an election to be treated otherwise. A foreign eligible entity with a single member having limited liability may elect to be treated as a disregarded entity pursuant to the rules of § 301.7701-3(c).

Section 301.7701-3(c)(1) provides that an entity classification election must be filed on Form 8832 and can be effective up to 75 days prior to the date the form is filed or up to 12 months after the date the form is filed.

Section 301.7701-3(c)(2) provides that such an election must be signed by either (A) each member of the electing entity who is an owner at the time the election is filed; or (B) any officer, manager, or member of the electing entity who is authorized (under local law or the entity's organization documents) to make the election and who represents to having such authorization under penalties of perjury.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than

6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as an election whose due date is prescribed by a regulation published in the Federal Register or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the election. Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

### Conclusion

Based solely on the information submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. As a result, Entity is granted an extension of time of 120 days from the date of this letter to file a Form 8832 with the appropriate service center to elect to be treated as a disregarded entity for federal tax purposes effective Date of Formation. A copy of this letter should be attached to the Form 8832. A copy is enclosed for that purpose.

This ruling is contingent on the owner of Entity filing within 120 days of this letter all required returns for all open years consistent with the requested relief. These returns may include, but are not limited to, the following forms: (i) Forms 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, and (ii) Forms 8858, Information Return of U.S. Persons With Respect to Disregarded Entities, such that these forms reflect the consequences of the relief granted in this letter. A copy of this letter should be attached to any such returns.

Except as specifically set forth above, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your taxpayer representative.

Sincerely,

David R. Haglund

David R. Haglund  
Branch Chief, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (121):

120 Copies of this letter  
Copy for section 6110 purposes

cc: